



DEC 21 2010

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
SAM NUNN
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA GEORGIA 30303-8960

Ms. Coleen H. Sullins
Director, Division of Water Quality
North Carolina Department of Environment
and Natural Resources
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Dear Ms. Sullins:

The Environmental Protection Agency (EPA) has completed its Clean Water Act (CWA) Section 303(c) review of North Carolina's action to reissue the color variance for Blue Ridge Paper Products (BRPP). In accordance with Section 303(c) of the CWA and 40 Code of Federal Regulations (CFR) Part 131, EPA hereby approves this variance.

The variance was reissued and became effective under State law on July 14, 2010. In a letter dated July 21, 2010, North Carolina Special Deputy Attorney General, Francis W. Crawley, certified the variance as "duly adopted in accordance with N.C.G.S. § 143-215.3(e) and 15A NCAC 2B .0226, following public notice, public comment, public hearings held in both North Carolina and Tennessee, and consideration by the National Pollutant Discharge Elimination System (NPDES) Committee of the Environmental Management Commission."

EPA initially approved this variance, which was adopted by the State on July 13, 1988, on August 11, 1988, based on the provisions of 40 CFR Section 131.10 (g)(6), which states:

"States may remove a designated use which is not an existing use, as defined in Section 131.3...if the State demonstrates that attaining the designated use is not feasible because...controls more stringent than those required by Section 301(b) and 306 of the Act would result in substantial and widespread economic and social impact".

Since the initial approval and subsequent approvals, including the most recent in November 2001, the facility has made significant improvements with a 90 percent reduction in color, overall, and a significant downward trend toward meeting state water quality standards as contemplated in the original issuance of the variance.

On May 26, 2010, the North Carolina Division of Water Quality (DWQ) issued a final NPDES permit to BRPP with an effective date of July 1, 2010. The permit continues the color variance and includes provisions for further reductions in color. The new starting annual average color limit is 38,020 lb/day. After 4 years, the final annual average color limit will be revised to a value in the range of 32,000 – 36,000 lb/day. This limit will be based on a demonstration of performance using annual effluent color data collected subsequent to BRPP's ongoing color treatment and removal efforts. A Color Reduction Implementation Plan is required within the

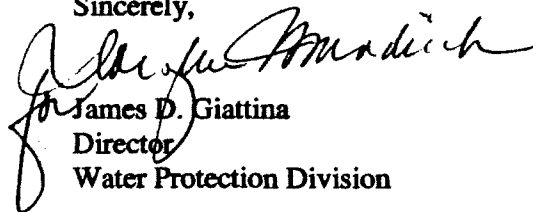
first year of this permit. A reopener clause was added, should breakthroughs in color removal technologies be identified or successful application of end-of-pipe color reduction technology or in-mill color minimization efforts result in measurable color reductions in the discharge. Additional requirements on color removal are found in Section A.(8.) *Requirements for Color Analysis and Compliance Special Conditions*, which included the most recent recommendations from the Technology Review Workgroup (memorandum dated February 25, 2008).

The U.S. Fish and Wildlife Service (Service) notified EPA that the most recent surveys of the Pigeon River, confirm earlier findings in that they do not reveal the presence of any federally listed species downstream of BRPP's discharge. Section 7(a)(2) of the Endangered Species Act requires that federal agencies, in consultation with the Service, ensure that their actions are not likely to jeopardize the existence of federally listed species or result in the adverse modification of designated critical habitat of such species. Based on the absence of species in the segment of the stream covered by the variance, EPA has determined that approval of the variance will have no effect on listed species. It is noted that scattered populations of Appalachian elktoe have been found upstream of the facility's discharge in the Pigeon River. As the variance will result in improved water quality and efforts continue to improve the River, EPA will continue to work with the Service should the population of Appalachian elktoe expand below the outfall.

Pursuant to 40 CFR Section 131.20, EPA finds that information available at this time does not show that the CWA Section 101(a)(2) uses are attainable and that the conditions under 40 CFR 131.10(g)(6) are still applicable; therefore continuance of the variance conditions is consistent with the CWA and 40 CFR Part 131. The new permit and the associated variance and special conditions reflect a comprehensive review of the variance with associated decreases in permit limits and requirements for continued research. This satisfies the review requested in the most recent triennial review of water quality standards. The next required review of this variance is scheduled for the 2011-2014 triennial review, at which time compliance with the conditions in the permit will be reviewed. The permit is scheduled to expire on June 20, 2015.

If you have any questions, please contact me at 404-562-9470 or have a member of your staff contact Ms. Lisa Perras Gordon at 404-562-9317.

Sincerely,


James D. Giattina
Director
Water Protection Division

cc: Ms. Dianne Reid, NC DWQ
Mr. Tom Belnick, NC DWQ
Mr. Paul Davis, TDEC
Mr. Dane Griswold, BRPP
Mr. Mark Cantrell, US FWS